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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,904	11/13/2003	David J. Baker	25090A	9434
22889	7590	04/10/2008		
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			EXAMINER HALPERN, MARK	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			04/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/712,904

Applicant(s)

BAKER ET AL.

Examiner

Mark Halpern

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
b) ☐ They raise the issue of new matter (see NOTE below);
c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-18, 27-32 and 34-37.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) _____.
13. ☐ Other: _____.

/Mark Halpern/
Primary Examiner
Art Unit 1791

Continuation of 11, does NOT place the application in condition for allowance because: The Office Action of 1/25/2008 is proper:

Claims 1, 3-8, 12-13, 15-17, 27-32, are rejected under 35 U.S.C. 102(b) as being anticipated by Shepherd (3,592,623). Shepherd discloses a glass melting furnace. As shown in Figures 1-4, the furnace is an elongated channel and includes an upstream end, a downstream end, two side walls a floor and a roof. The downstream end is near the fining zone 17. The exhaust stack is located at the downstream end, and is located downstream of all the burners, and is in communication with the downstream end of the furnace. The upstream end and the downstream end are configured to allow unimpeded flowing and blending of the glass-forming material. The charge entry of melting materials 25 is located at the upstream end. The burners 30, 31, 65 are located at the upstream end. Exhaust is positioned to allow exhaust gases to provide additional heat to the melting glass-forming materials (col. 2, line 62 to col. 9, line 49, Figs. 1-5). Exhaust is a plurality of exhaust stacks as shown in Fig. 1.

Claims 2, 10-11, 18, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd in view of Pflugi (5,925,165).

Claim 2: Shepherd is applied as above for claim 1, Shepherd fails to disclose burner mounted in the roof of the furnace. Pflugi discloses glass melting furnace having multiple burners 9, 10, located and mounted in the roof of the furnace (col. 3, line 18 to col. 4, line 46 and Figures 1, 2). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Shepherd and Pflugi, because such a combination would provide for a more even heating of the melted material in the furnace of Shepherd.

Claims 10-11, 18: Pflugi glass melting furnace has exhaust ducts 25, 38 located downstream of all of burners (col. 3, line 18 to col. 4, line 46 and Figures 1, 2).

Claims 9, 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd in view of Hoke (6,519,973). Shepherd is applied as above for claims 1, 12, Shepherd does not disclose that the exhaust is located at a sidewall of the furnace. Hoke discloses a glass melting furnace where exhausts 145, 147, are located at sidewalls of the furnace as shown in Figure 7. It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Shepherd and Hoke, because such a combination would improve glass quality in the design of Shepherd as disclosed by Hoke (Abstract).

Claims 34-37, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd in view of Simpson (US 2001/0039813) or LeBlanc (6,237,369). Shepherd is applied as above for claim 1, Shepherd does not disclose further a burner supplying heat to downstream fining end. Simpson and/or LeBlanc disclose a glass melting furnace, where a burner is installed in the roof of the furnace supplying heat toward downstream end of the furnace. The burner is mounted at an angle about 20 degrees to the vertical. See Figures 2A, 3, 5, 7 of Simpson. See Figures 1-3, of LeBlanc. It would have been obvious to combine the teachings of Shepherd and Simpson and/or LeBlanc, because such a combination would permit melting control in the furnace of Shepherd.